



0000083977



Richard S. Wolters  
Senior Attorney

VIA HAND DELIVERY

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DOCUMENT CONTROL

March 11, 1999

Commissioner Carl J. Kunasek  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, AZ 85007

Arizona Corporation Commission  
**DOCKETED**

MAR 12 1999

**RE: Docket No. RT-0000J-99-0095**

DOCKETED BY	JM
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Dear Commissioner Kunasek:

AT&T files this letter to clarify statements made in a letter sent to you by AT&T's Patricia vanMidde, dated March 4, 1999, regarding the Petition for Order Concerning Toll Carrier Presubscription Plan filed by U S WEST in the above-referenced matter. In its Petition, U S WEST's seeks a determination that it is in the public interest that U S WEST be authorized to provide all in-state toll calls within the state of Arizona and requests the Commission eliminate the LATA boundaries such that toll carrier presubscription would be based on state borders, rather than LATA boundaries, to be effective when U S WEST obtains interLATA relief under Section 271 of the Telecommunications Act of 1996. As indicated in AT&T's March 4, 1999 letter, this is U S WEST's second attempt to improperly and prematurely obtain a ruling from this Commission that would eliminate the LATA boundaries in Arizona. While U S WEST has added a few new twists to its arguments, the reasons for rejecting this Petition remain unchanged.

As an initial matter, the public interest determination sought by U S WEST is a component of the Section 271 proceeding presently before the Commission. U S WEST's request that the public interest determination be made in the abstract in this proceeding is an inappropriate end run of proper consideration of this issue in U S WEST's Section 271 case.

Second, as indicated above, U S WEST made a similar filing to eliminate the LATA boundaries in Arizona in 1996. The Federal Communications Commission ("FCC") entered a declaratory ruling on that filing, concluding unequivocally that state

commissions did not have authority to modify or eliminate LATA boundaries.<sup>1</sup> The FCC rejected the claim reasserted by U S WEST in its Petition that, in its *Second Report and Order*, it had delegated its authority to the states to redefine LATA boundaries. The FCC confirmed that the *Second Report and Order* observed that the Section 272 separate affiliate requirement will cause the LATA boundaries to remain an important element of federal law for a significant period following approval of a BOC's Section 271 application in a particular state.<sup>2</sup> In Section 272, Congress required that for at least three years after it receives Section 271 authority, a BOC may carry interLATA traffic originating in its region only by employing a separate subsidiary and complying with a variety of structural, accounting and nondiscrimination safeguards intended to prevent it from using its market power in local exchange markets to injure interexchange competition. As the FCC recognized, LATA boundaries will be the means to "define the geographic areas in which a BOC that provide toll services must do so through an affiliate (interLATA) and those in which it may provide toll services directly (intraLATA)."<sup>3</sup>

Accordingly, AT&T objects to U S WEST's Petition.

Sincerely,



Richard S. Wolters

cc: Patrick Black, Advisor  
Jim Fischer, Advisor  
Jerry Porter, Advisor

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<sup>1</sup> See *In the Matter of Petition for Declaratory Ruling Regarding U S WEST Petitions to Consolidate LATAs in Minnesota and Arizona*, Docket No. NSD-L-97-6, Order DA 97-767, released April 21, 1997 ("FCC LATA Order").

<sup>2</sup> See *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Second Report and Order and Memorandum Opinion and Order*, CC Docket No. 96-98, FCC 96-333, released August 8, 1996 ("Second Report and Order"), ¶ 37, n.81 ("it appears that the LATA distinction will remain relevant insofar as it will continue to define the geographic areas in which a BOC must provide toll services through an affiliate and those in which it may provide toll services directly"); FCC LATA Order, ¶ 22.

<sup>3</sup> See FCC LATA Order, ¶ 22.

## CERTIFICATE OF SERVICE

I hereby certify that 11 copies of the Letters From Richard S. Wolters on behalf of AT&T Communications of the Mountain States, Inc. to James M. Irvin, Carl J. Kunasek and Tony West of the Arizona Corporation Commission regarding Docket No. RT-0000J-99-0095, were hand delivered this 12th day of March, 1999, to:

Arizona Corporation Commission  
Docket Control - Utilities Division  
1200 West Washington Street  
Phoenix, AZ 85007

and a true and correct copy was hand delivered this 12th day of March, 1999 to:

Paul Bullis, Esq.  
Legal Division  
Arizona Corporation Commission  
1200 West Washington Street  
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Ray Williamson, Acting Director  
Utilities Division  
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Timothy Berg  
Fennemore Craig, PC  
3003 N. Central Avenue, Suite 2600  
Phoenix, AZ 85012-2913

Thomas Dethlefs  
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1801 California Street, Suite 5100  
Denver, CO 80202



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Senior Attorney

Room 1575, 15th Floor  
1875 Lawrence Street  
Denver, CO 80202  
303 298-6741

**VIA HAND DELIVERY**

March 11, 1999

Chairman James M. Irvin  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, AZ 85007

**RE: Docket No. RT-0000J-99-0095**

Dear Chairman Irvin:

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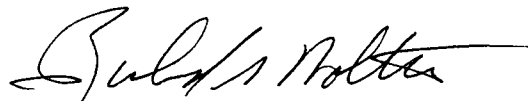
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<sup>3</sup> See FCC LATA Order, ¶ 22.

## CERTIFICATE OF SERVICE

I hereby certify that the original and 10 copies of the Letter from Richard S. Wolters to the Arizona Corporation Commission Expressing Interest in Receiving Copies of Any Future Filings or Orders regarding Docket No. RT-0000J-99-0095, were hand delivered this 12th day of March, 1999, to:

Arizona Corporation Commission  
Docket Control - Utilities Division  
1200 West Washington Street  
Phoenix, AZ 85007

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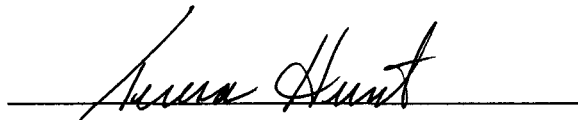
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March 11, 1999

Commissioner Tony West  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, AZ 85007

**RE: Docket No. RT-0000J-99-0095**

Dear Commissioner West:

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